

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

LAHNEEN SLANTIS,	:	
Plaintiff	:	NO.: 1:09-CV-00049-CCC
	:	
v.	:	(JUDGE CONNER)
	:	(MAGISTRATE JUDGE PRINCE)
CAPOZZI & ASSOCIATES, P.C.,	:	
Defendants	:	
	:	

ORDER

Pursuant to an Order entered on August 2, 2010 (Doc. 70), Honorable Christopher Conner referred defendant's pending motion to disqualify plaintiff's counsel to the undersigned Magistrate Judge.

On July 6, 2009, defendant filed a motion to disqualify plaintiff's counsel. (Doc. 21.) As grounds for disqualification, the motion cites Local Rule 43.1, which states: "If an attorney for any party becomes a witness on behalf of a client and gives evidence upon the merits of the case the attorney shall forthwith withdraw as trial counsel unless, upon motion, permitted to remain as trial counsel by the court." The motion indicates that plaintiff's counsel, Frank P. Clark, authored a letter to defendant; this letter contained statements that "direct[ly] and foreseeabl[y] resulted" in defendant taking the actions that are the subject of the underlying lawsuit. (Doc. 21, ¶¶ 2, 4.) This involvement in the case, defendant believes and avers, makes Mr. Clark a likely witness in the merits of the case, which, of course, would violate L.R. 43.1.

The Court can only speculate on whether defendant's argument has any merit. As plaintiff points out in her brief in opposition, defendant never submitted a supporting

brief. (Doc. 34, p. 2.)¹ Defendant has neither explained the failure to file a supporting brief nor ever requested an extension of time.

Local Rule 7.5 states: “Within fourteen (14) days after the filing of any motion, the party filing the motion shall file a brief in support of the motion. . . . If a supporting brief is not filed within the time provided in this rule[,] the motion shall be deemed to be withdrawn.” Since more than fourteen days have passed since the filing of defendant’s motion without any supporting brief, it is ORDERED that defendant’s motion to disqualify plaintiff’s counsel (Doc. 21) is WITHDRAWN.

s/ William T. Prince

William T. Prince

United States Magistrate Judge

August 4, 2010

¹ Although defendants never filed a brief in support of their motion, the Court nevertheless ordered plaintiff to file a brief in opposition. (Doc. 30.)